

REMARKS

Claims 1-37 are now pending in the application (although the Examiner states in the instant office action that claims 1-36 are pending). Claims 1, 3, 5, 6, 8, 9 and 11 are currently amended. Claims 12-25 and 27-37 were withdrawn from further consideration by the Examiner under 37 CFR 1.142(b), as being drawn to a non-elected invention. Claims 2, 4, 7, 10 and 26 are original. A copy of the claims now pending in the application showing changes made to currently amended claims in accord with 37 CFR 1.121, as revised, has been provided.

No new matter has been introduced by virtue of the amendments made herein. Accordingly, applicants respectfully request their entry. In view of the amendments made herein and the remarks below, applicants respectfully request reconsideration and withdrawal of the rejection set forth in the May 4, 2004 office action.

Election/Restriction

The Examiner states that "during a telephone conversation with Ms. Hoseley on April 7, 2004 a provisional election was made with traverse to prosecute the invention of Group III, claims 1-11, 26 in part, drawn to a compound wherein the Azabicyclo is of formula III or IV." In accord with the requirement of the Examiner, applicant hereby affirms the aforesaid provisional election with traverse.

Applicant traverses the Examiner's restriction on the basis that the specific azabicyclo heptane, octane and nonane moieties recited in formula I are closely related structurally, chemically and in their physiological action. Applicant submits that a search for the specific moieties recited in claim 1 would not be burdensome. Applicant respectfully requests rejoinder of the withdrawn claims of groups I, II, IV and V.

Applicant further submits that azabicyclo heptane, octane and nonane moieties I, II and III recited in formula I are especially closely related structurally and chemically as they all contain the nitrogen atom at the bridgehead. Applicant submits that a search for these specific moieties containing a bridgehead nitrogen would not be burdensome. In the event the Examiner rejects rejoinder of all the withdrawn claims applicant respectfully requests that the claims of groups I and II which recite nitrogen bridgehead moieties of formulas I and II be rejoined to the elected claims of group III which recite nitrogen bridgehead moieties III and IV.

Applicant further submits that the composition and methods of use claims of groups VI and VII form an integral part of the instant invention and respectfully request their rejoinder.

Claim Objections

The Examiner objected to claims 1-7, 10, and 26 because they allegedly contain non-elected subject matter. Without prejudice and in the interests of facilitating prosecution, applicant has amended claims 1, 3, 5 and 6 to recite only elected subject matter. As a result, dependent

claims 2, 4, 10 and 26 recite only elected subject matter. Applicant respectfully requests withdrawal of the objection to claims 1-7, 10 and 26.

The Examiner objected to claims 8, 9 and 11 because they allegedly are dependent on the objected claims 7 and 10. As discussed above, claims 7 and 10 recite only elected subject matter. Applicants respectfully request withdrawal of the objection to claims 8, 9 and 11. In addition, without prejudice and in the interests of facilitating prosecution, applicant has amended claim 11 to recite only elected subject matter.

Rejection under 35 USC § 112, second paragraph

The Examiner rejected claims 1-7, 10, 11, and 26 under 35 USC § 112, second paragraph, for indefiniteness. The Examiner cited the following alleged points of indefiniteness:

a. Claim 1, definition of R_3 , 'two R_3 on adjacent carbon atoms may fuse to form a 6-membered ring to give a 5-6 fused, bicyclic moiety' is unclear as to what kind of 6-membered ring is intended. The Examiner asserts a full definition is not found in the specification. Applicant submits that a full definition is given at paragraph [0475] of the published specification wherein one of the definitions of W displays formulas of moieties wherein the fused 6 membered moiety is an unsaturated carbocyclic ring. In addition, the Examiner concedes that benzene is exemplified on page 34. Without prejudice and in the interests of facilitating prosecution, applicant has amended claim 1 to recite: "...two R_3 on adjacent carbon atoms may fuse to form a 6-membered unsaturated carbocyclic ring to give a 5-6 fused, bicyclic moiety..."

b. Recitation in the definition of R_9 of the expressions "10-membered heteroaromatic bicyclic moieties" and "including, but not limited to, quinolinyl or isoquinolinyl". Without prejudice and in the interests of facilitating prosecution applicants have amended claim 1 by deletion of the phrase "including, but not limited to, quinolinyl or isoquinolinyl,".

c. Claim 11 directed to pyrrole compounds should be dependent on claim 10 not claim 9 directed to pyrazolyl compounds. Without prejudice and in the interests of facilitating prosecution, applicants have amended claim 11 to make it dependent on claim 10.

Applicant submits currently amended claims 1 and 11 and claims 2-7, 10, 11 and 26 are patentable under 35 USC § 112, second paragraph. Applicant respectfully requests withdrawal of the rejection of claims 1-7, 10, 11 and 26 under 35 USC § 112, second paragraph.

Allowable Subject Matter

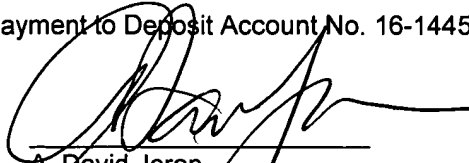
The Examiner concedes that the subject matter of the elected Group III compound wherein W is pyrazolyl or pyrrolyl and the pharmaceutical composition thereof is allowable.

In view of the amendments set forth herein and remarks above, applicant respectfully submits that the pending claims are fully allowable, and solicits the issuance of a notice to such effect. If a telephone interview is deemed to be helpful to expedite the prosecution of the subject

application, the Examiner is invited to contact applicant's undersigned attorney at the telephone number provided.

The Commissioner is hereby authorized to charge any fees required under 37 C.F.R. §§1.16 and 1.17 or to credit any overpayment to Deposit Account No. 16-1445.

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